

REMARKS

Rejection of Claims 1, 5 and 14 under 35 USC 112 second paragraph

Claims 1, 5 and 14 have been amended to overcome the rejections under 35 USC 112 second paragraph. Claim 1 has been amended to correct the antecedent identifier as suggested by the examiner. Claim 5 has been amended to distinctly identify that the wing nut and latching plate are adapted to engage the rim. Claim 14 has been amended to make it clear that the clamping member includes a latching member and a support plate.

Rejection of Claim 1, 11-15, 17 and 21 under 35 USC 102(b) as being anticipated by Sauner (5,975,498)

Claims 1, 11 and 21 as amended include the limitation that a second flexible member is attached to a vehicle at one end and to a tire, in claim 1, or locking member in claims 11 and 21. This relationship is not disclosed in the Sauner reference. Specifically the Sauer reference on column 2 lines 55-65 states "a short length of auxiliary flexible steel cable 45 has an upper end portion 47 which is rigidly secured to the winch cable 18 by a clamp type or crimp cable connector 49. The connector 49 is rigidly secured to the winch cable 18 at a location spaced above the retaining bracket 24, and the cable 45 extends downwardly through a laterally offset hole 53 within the bracket 24. The cable 45 has a lower end portion 56 which receives a surrounding collar or stop fitting 58 also positively secured or crimped to the cable 45. The fitting 58 is spaced below the top of the bracket 24, as shown on FIG. 1. The auxiliary cable is therefore not secured to a vehicle, as required in the above claims, but is rather secured to the wick cable at one end and to a retainer bracket at the other end. Therefore independent Claims

1,11 and 21 are not anticipated and dependant claims 1-15 and 17 are also not anticipated.

Withdrawal of the above rejection is respectfully requested.

**Rejection of Claims 2,3,5,10 and 19 under 35 USC 103(a) as being unpatentable over
Sauner in view of Klein (4,047,629)**

At the outset it is noted that the Klein reference does not teach a second flexible member attached at one end to a vehicle and at another end to the tire or a locking member, as outlined above. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as required by the present invention in either the Sauner or Klein reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, there is no motivation to combine Sauner and Klein in either of the references. (see MPEP section 2143.01) In fact the teaching of the Klein reference requires a an elongated normally horizontal tire support element 16 connected to a cable 22 at the rearward end of the support element 16. There is no teaching or suggestion to include a second flexible member or cable in the reference. Additionally the tire mounting bracket is disposed on the support element 16. The Sauner reference teaches a short length of auxiliary flexible steel cable 45 which is rigidly secured to the winch cable 18 at one end of the auxiliary cable and includes a stop fitting spaced below the top of at tire mounting bracket 24 at the other end of the cable. Again there is no motivation to combine the two references as, the cables of the two references are attached at different locations in relation to the tire mounting bracket. Therefore, Applicant's attorney respectfully requests withdrawal of the rejection.

Rejection of Claims 4,6,18,20 under 35 USC 103(a) as being unpatenable over Sauner in view of Hoagland(4,492,506)

Again, it is noted that the Hoagland reference does not teach a second flexible member attached at one end to a vehicle and at another end to the tire or a locking member, as outlined above. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as required by the present invention in either the Sauner or Hoagland reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, there is similarly no motivation to combine the Sauner and Hoagland references in either of the references. As with the Klein reference outlined above, there is a disclosure in the Hoagland of a body 16 including an arm 20 having one end 22 that is pivoted relative to the body 16. When viewing the references as a whole, there is no motivation to combine the two references. Therefore, applicant's attorney respectfully requests withdrawal of the rejection.

Rejection of Claim 7 under 35 USC 103(a) as being unpatentable over Sauner in view of Gasser(4,809,477)

Again, it is noted that the Gasser reference does not teach a second flexible member attached at one end to a vehicle and at another end to the tire or a locking member, as outlined above. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as required by the present invention in either the Sauner or Gasser reference, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, there is no motivation to combine the two references as one of ordinary skill in the art would not look to a non-analogous art such as a roof fastener for an application in a tire latch assembly. (see MPEP section 2141.01(a)) There is no teaching in either of the references to use a clamp member that includes a toggle member having a longitudinal portion, a threaded portion, a base plate and a threaded fastener. The longitudinal portion includes a pair of extending wings and the base plate includes a portion forming a plate aperture. The threaded portion is inserted into the plate aperture for sandwiching the rim between the base plate and the pair of wings. Therefore, applicant's attorney respectfully requests withdrawal of the rejection.

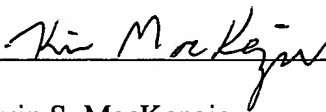
Rejection of Claims 8 and 16 under 35 USC 103(a) as being unpatentable over Sauner

As noted above, the Sauner reference does not teach a second flexible member attached at one end to a vehicle and at another end to the tire or a locking member. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member as required by the present invention in the Sauner reference, applicant's attorney respectfully requests withdrawal of the rejection.

Conclusion

It is argued that the present amendment places all of the claims in condition for allowance and a notice to that effect is respectfully requested. The Examiner is invited to telephone the undersigned attorney if doing so would advance prosecution of this case.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Kevin MacKenzie", is written over a horizontal line.

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